

**STAFF REPORT**  
**Community Development Department**  
**File Number: SE-12-009**

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**To:** Charlotte County Board of Zoning Appeals

**From:** Shaun Cullinan, Zoning Official

**Prepared By:** Ken Quillen, AICP, Planner III

**Report Date:** July 3, 2012

**BZA meeting date:** July 11, 2012

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**Requested Action/General Information:**

William Barnett, agent for CenturyLink, is requesting a special exception to allow an essential service, consisting of a communications sub-station (pair gain), in a Residential Single-family-3.5 (RSF-3.5) zoning district. Subject property is located at 21431 Dawson Avenue in Port Charlotte (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Residential Single-family-3.5 (RSF-3.5). This property has a Low Density Residential Future Land Use Map designation.

The applicant has submitted the attached **Site Plan** (**Exhibit A**), which shows the existing 9,990 square foot lot (81' by 125') with 10-foot wide easements along the south and west property lines for drainage and public utilities. The applicant would like to be allowed to construct a new pair gain, similar to the one shown in the attached **Photograph** (**Exhibit B**), for the improvement and expansion of residential telephone and internet service to this residential area. The applicant has also submitted a **Site Plan** (**Exhibit C**), which shows a proposed 450 square foot (18' by 25') equipment pad located in the northwest corner of subject property, and an **Equipment Plan** (**Exhibit D**) showing the layout of the communications equipment. These plans also include a new access drive off of Dawson Avenue for off-street parking of vehicles while servicing this equipment.

This proposed "essential service" use requires a special exception because it will be located in a RSF-3.5 zoning district and among existing single-family residences. The zoning code allows this use as a special exception provided it complies with all of the development standards of the zoning code, including landscaping, as well as any conditions imposed by the Board of Zoning Appeals "to prevent or minimize adverse effects on other property in the surrounding neighborhood" (sec. 3-9-7(h)). Staff does believe the use, as proposed, will be compatible with the surrounding residential neighborhood.

The applicant has submitted the attached **Narrative** (**Exhibit E**) explaining why they believe a special exception should be granted for this proposed communications pair gain. The Community Development Department's Environmental Specialist has performed a cursory environmental review and their comments are in the attached **Memorandum** (**Exhibit F**) dated May 24, 2012.

**Findings:**    **The six standards for approval of a Special Exception according to Section 3-9-7(f) of the Charlotte County Zoning Code are as follows:**

1. The requested special exception is either explicitly permitted in the zoning district for which it is requested or is permitted by reasonable implication within that district.

Finding: The Zoning Code explicitly states that an essential service is allowed by special exception in the RSF zoning districts as per Section 3-9-32(e).

2. The requested special exception is compatible with existing uses surrounding immediately adjacent and contiguous to the land on which the requested special exception would exist.

Finding: The proposed pair gain, for telephone and internet communications, is considered an essential service to all land uses, including residential areas, and therefore needs to be located within residential areas. As such, these facilities must obtain approval of a special exception to assure they are compatible with the existing single-family residences in the surrounding area.

Direction	Existing Land Uses	Existing Zoning	Future Land Use Map Designation
North	Single-family residences	RSF-3.5	Low Density Residential
South	Single-family residences	RSF-3.5	Low Density Residential
East	Single-family residences	RSF-3.5	Low Density Residential
West	Peace River	Marine Park	Not applicable

3. Adequate access shall be provided for ingress and egress to the proposed use in a manner that minimizes hazards and congestion on streets and roads.

Finding: A new 18-foot wide access drive is proposed off of Dawson Avenue, which must be reviewed and approved by Land Development's Right-of-way Division.

4. Adequate provision has been made for buffers, landscaping, trees, open space, storm-water or other improvements associated with the proposed use.

Finding: Buffers are not normally required for smaller facilities of this type; however, this request is for larger than normal equipment, so if the Board of Zoning Appeals believes there is a need for additional buffering or screening of this pair gain facility they may require it.

5. The requested Special Exception is consistent with the **Smart Charlotte 2050 Plan** (Charlotte County Comprehensive Plan) and **Land Development Regulations**.

Finding: The placement of a pair gain facility on this site may be considered consistent with the Infrastructure Element of the **Smart Charlotte 2050 Plan** and essential services are permitted by special exception in the **Land Development Regulations**.

6. The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety or general welfare.

Finding: Staff believes that the proposed pair gain facility would not be detrimental to or endanger the public health, safety or general welfare of the surrounding residential properties, because the property could still be developed with a single-family residence.



### **ANALYSIS AND CONCLUSIONS:**

After review of the site and the application requesting this special exception staff believes that the proposed pair gain, for communications equipment, does meet the six criteria for granting a special exception.

If the Board of Zoning Appeals decides to approve the requested special exception staff recommends the following conditions be adopted, as conditions of approval, to ensure the use is in compliance with the purpose and intent of the Zoning Code. The conditions are as follows:

1. This special exception, as approved by the Board of Zoning Appeals, is to allow an essential service, consisting of a telephone and internet communications pair gain, and extends only to the land included in the Site Plan and legal description submitted with this application.
2. The site plan presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the construction and operation of the proposed telephone and internet communications pair gain.
3. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

**Please be advised that the final decision regarding the petition rests with the Board of Zoning Appeals, and will be decided upon consideration of all the evidence introduced at the hearing.**

Attachments: Staff Report (3), Area Map, Zoning Map, Aerial Photograph, Boundary Survey, Photograph, Site Plan, Equipment Plan, Narrative, and Environmental Specialist Memorandum





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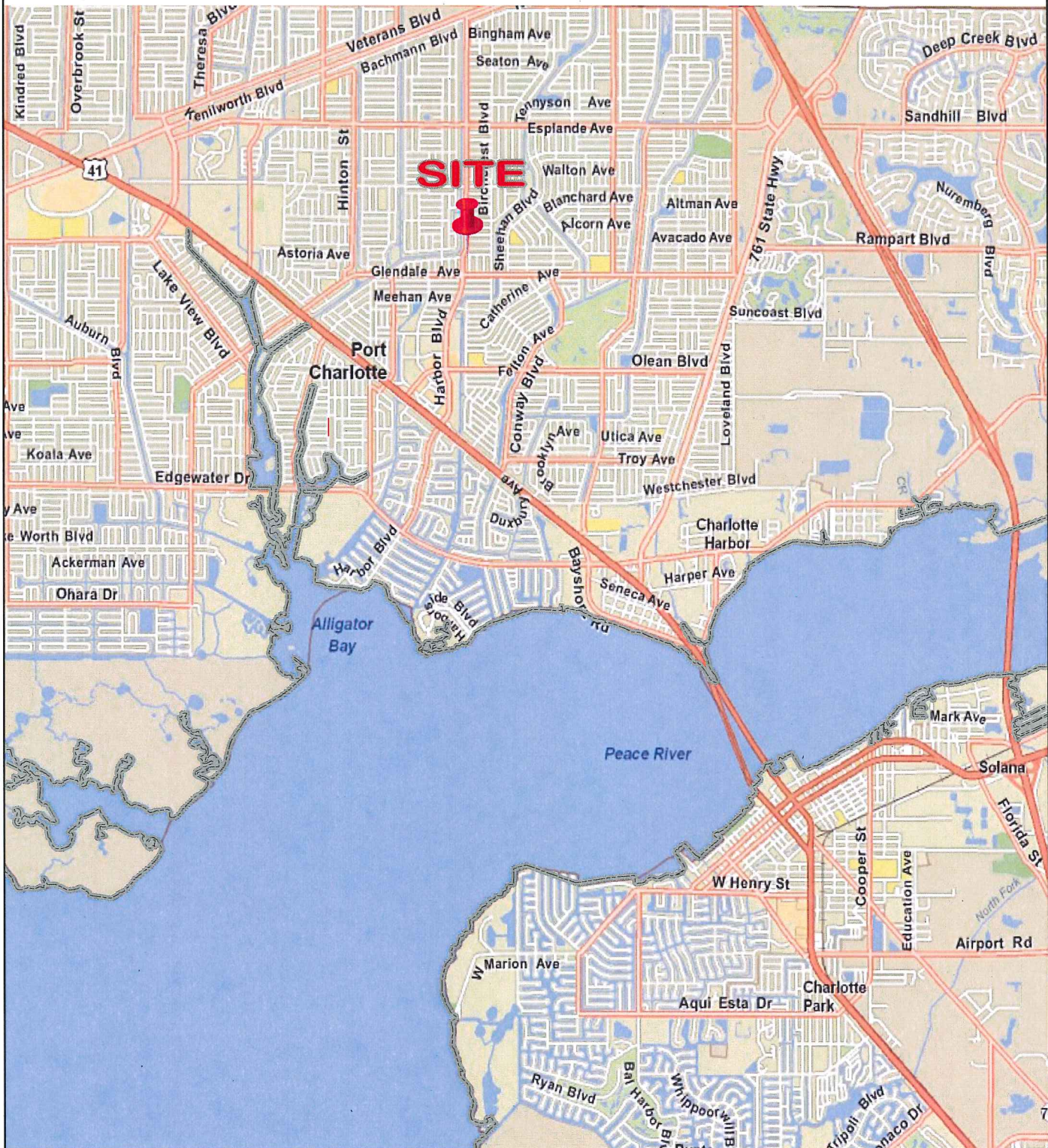
# CHARLOTTE COUNTY

## Location Map for SE-12-009

Charlotte County Government

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15/40/22 Mid County

This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guaranties, implied or otherwise, to the accuracy, or completeness. We therefore do not accept any responsibilities as to its use. This is not a survey or is it to be used for design. Reflected Dimensions are for Informational purposes only and may have been rounded to the nearest tenth. For precise dimensions, please refer to recorded plats and related documents. Created By: Land Information--D. Vance Date Saved: 6/21/2012 4:09:56 PM

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# CHARLOTTE COUNTY

## Zoning Map for SE-12-009

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# CHARLOTTE COUNTY

## Aerial View for SE-12-009

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# SURVEY PLAT

OF  
 LOT 20, BLOCK 1399, PORT CHARLOTTE SUBDIVISION SECTION 28  
 AS RECORDED IN PLAT BOOK 5, PAGES 21A & 21B  
 LYING IN  
 SECTION 15, TOWNSHIP 40 SOUTH, RANGE 22 EAST,  
 CHALOTTE COUNTY, FLORIDA

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C-1	25.00'	39.27'	35.36'	S 44°50'39" E	90°00'00"

NOTES:  
 SURVEY BASED ON THE RECORD PLAT OF PORT CHARLOTTE SUBDIVISION  
 AS RECORDED IN PLAT BOOK 5, PAGES 21A-21B AND EXISTING MONUMENTATION.  
 BEARINGS BASED ON THE CENTERLINE OF DAWSON AVENUE BEING  
 S 89°50'39" E.

PARCEL LIES IN FLOOD ZONE "X", HAVING NO BASE FLOOD ELEVATION. THIS  
 INFORMATION TAKEN FROM FLOOD INSURANCE RATE MAP 220051-0004, 5-06-03,  
 FLOOD INSURANCE RATE MAP 120051-0064, 5-06-03.

THE F.L.M.A. FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON  
 CURRENTLY AVAILABLE INFORMATION. THE FLOOD ZONE INFORMATION  
 MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO  
 COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD  
 INFORMATION.

ABOVE GROUND OR UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR  
 FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.

THIS PLAT PREPARED AS A BOUNDARY SURVEY AND IS NOT INTENDED TO  
 DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL,  
 STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.  
 SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHT-OF-WAY  
 (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

ALL DIMENSIONS PLAT AND FIELD VERIFIED, UNLESS OTHERWISE SHOWN.

DATE OF LAST FIELD WORK: 06-20-2011

PARCEL ID #402215228011

PARCEL CONTAINS 9991 SQUARE FEET, MORE OR LESS.

BY: *[Signature]*  
 TUDOR G. HANCOCK  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. L5# 5838

DATE SIGNED: June 24, 2011

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA  
 LICENSED SURVEYOR AND MAPPER.

THIS BOUNDARY SURVEY IS ONLY FOR THE LANDS AS DESCRIBED. IT IS NOT A  
 CERTIFICATE OF TITLE, ZONING, EASEMENTS OR FREEDOM OF ENCUMBRANCES.

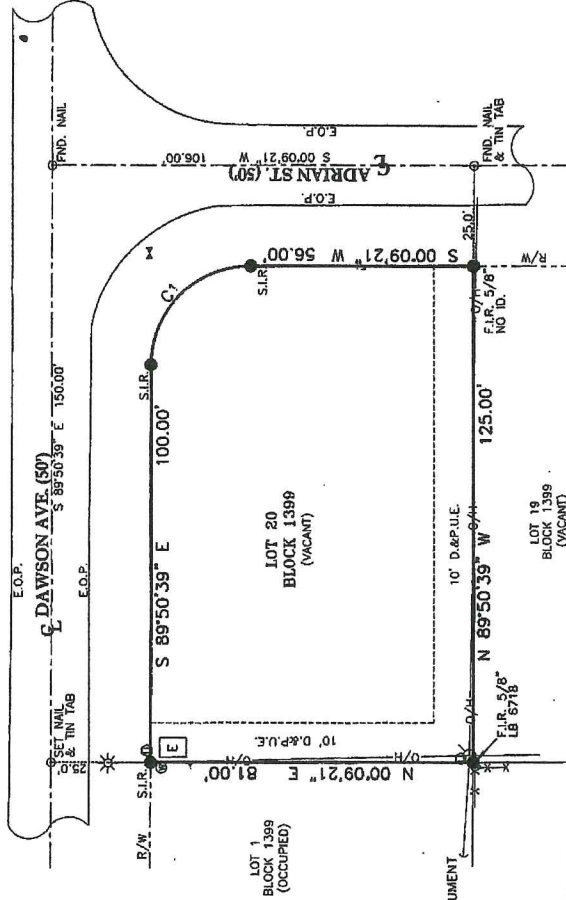
THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF AN ABSTRACT OF TITLE AND ALL  
 MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

LOT 20,  
 BLOCK 1399, PORT CHARLOTTE SUBDIVISION

## BOUNDARY SURVEY

**METRON**  
 SURVEYING & MAPPING, LLC  
 LAND SURVEYORS-PLANNERS  
 10970 S. CLEVELAND AVENUE  
 SUITE #603  
 FORT MYERS, FLORIDA 33907  
 PHONE (239) 775-1515  
 FAX (239) 270-6457  
 www.metronllc.com

FILE NAME:	12105SR.DWG	FIELD BOOK/PAGE:	508/41	PROJECT NO.:	12109	SHEET:	1 OF 1
SURVEY DATE:	6-20-2011	DRAWN BY:	JDF	SCALE:	1" = 30'	CHECKED BY:	TLM
							15-40-22



FOR THE EXCLUSIVE USE OF:  
 - CENTURYTEL SERVICE GROUP, LLC

Boundary Survey  
 (Exhibit A)

### LEGEND:

- R/W = RIGHT OF WAY
- N/D = NAIL & DISC
- CONC. = CONCRETE
- P.R.M. = PERMANENT REFERENCE MONUMENT
- FND. = FOUND
- P.B. = PLAT BOOK
- (C) = CALCULATED
- (P) = PLAT
- (M) = MEASURED
- ID. = IDENTIFICATION
- S.L.R. = SET 5/8" IRON ROD & CAP LB# 7071
- E.O.P. = EDGE OF PAVEMENT
- F.L.R. = FOUND IRON ROD
- D.&P.U.E. = DRAINAGE & PUBLIC UTILITY EASEMENT
- ELEV. = ELEVATION
- ⊙ = TELEPHONE SERVICE
- ⊙ = WATER VALVE
- ⊙ = CONCRETE PAD WITH EMBARK BOX
- ⊙ = CONCRETE PAD
- ⊙ = FIRE HYDRANT
- ⊙ = WOOD LIGHT POLE
- ⊙ = WATER METER
- ⊙ = CABLE TELEVISION BOX
- ⊙ = SEWER SERVICE
- ⊙ = WOOD UTILITY POLE
- ⊙ = OVERHEAD LINES
- - - = ANCHOR
- - - = 6" WOOD FENCE





**Photograph  
( Exhibit B )**



# 21431 DAWSON AVE LOT SITE PLAN LAYOUT

0' 20'  
SCALE 1" = 20'

EXISTING UP 1248 SPLICE  
CLOSURE

EXISTING 5' X 7' PAD  
AND XBOX 1125

PLACE 2" CNOT 76' FROM POWER PAD  
ON EQUIPMENT SITE PLAN SHT 3 TO  
FPL POLE FOR POWER

22' X 24' CULVERT  
DRIVEWAY DRAWINGS  
ON SHT 4

15' X 18' CONCRETE  
DRIVEWAY DRAWINGS  
ON SHT 4

15' X 18' SHELL MARL AND GRAVEL  
DRIVEWAY DRAWINGS  
ON SHT 3

SEE EQUIPMENT SITE DETAIL  
DRAWING ON SHT 3

LOT 20 BLK 1399  
21431 DAWSON AVE

**RECEIVED**  
JUN - 4 2012  
BY: \_\_\_\_\_

**Site Plan  
(Exhibit C)**



Title: PTCT OSP BDDLC DAWSON	Township/Taxcode:	Exchange: PTCT7207	Map:	Engineer: CORRIGAN, BRYAN	Work Order: 217529
Location:	Manager:	CD:	Scale: 1"=50'	Phone: 941-380-5777	NO Create: 08/03/2011
				Print Date: 06/01/2012	Sheets: 5
					Df: 5



21439 DAWSON AVE.

4" ROCK TO BE PLACED INSIDE OF SITE.

⊗ FPL POLE

**RECEIVED**  
MAY 16 2012  
BY:

2" CONDUIT BURIED  
TO FPL POLE FOR  
POWER.

PLACE ELECTRONIC MARKERS  
AT THE END OF ALL  
VACANT DUCTS.

TOWARD HARBOR BLVD →

COUNTY WILL DETERMINE THE  
LOCATION AND SIZE OF CULVERT  
COUNTY WILL STAKE ELEVATION  
AND WHERE TO PLACE CULVERT

DRIVEWAY DRAWINGS ON SHEET 4

DAWSON AVE

**Equipment Plan  
(Exhibit D)**



Title: PICT OSP BBOLC DAWSON	Township/Taxcode: 0800 - Charlotte	Exchange: PICT207	Map: No Scale	Engineer: BARNETT, WILLIAM L	Work Order: 27529
	Manager: THAYER, VON	CO: PICT	No Scale	Phone: 941-637-5103	Sheet: 3
Location:					Off: 4
Print Date: 08/05/2011					





Re: Narrative Description of Request for Special Use Exception  
For Residential Lot Located at 21439 Dawson / 1571 Adrian, Port Charlotte, FL

Dear Community Development Zoning Division:

As part of the special use exception application ("Application") by Embark Florida, Inc. d/b/a CenturyLink ("CenturyLink") for the residential lot located at 21439 Dawson / 1571 Adrian, Port Charlotte, FL, please accept the following narrative as an attachment to the Application.

**Section 3-9-7(f) Standards for Approval** indicates that a special exception must:

- (1) either be explicitly permitted by zoning district regulations or permitted by reasonable implication;
- (2) be compatible with existing uses;
- (3) include adequate ingress and egress for the use;
- (4) have adequate provision for buffers, landscaping, trees, open space, storm water or other improvements associated with the proposed use
- (5) be consistent with Charlotte County Comprehensive Plan and Land Development Regulations; and
- (6) not be detrimental to endanger the public health, safety or general welfare.

While Section 3-9-7(f)(1), (2) and (5) will be discussed further herein, the site plans included with the Application evidence that CenturyLink will comply with Section 3-9-7(3) above by installing a driveway to the pair gain for adequate ingress and egress. In regards to Section 3-9-7(4), the lot is currently covered by Brazilian pepper trees, which will be cleared sufficiently for construction of the pair gain, the ingress/egress driveway, and the storm water culverts. The location will also receive landscaping treatment. Finally, in compliance with above Section 3-9-7(6), the technical specifications contained within the site plan assure no detriment to public health, safety or general welfare.

In regards to above Section 3-9-7(f)(1),(2) and (5):

Section 3-9-32(c) states that uses and structures customarily accessory and clearly incidental to permitted uses [in this subdivision, single-family dwellings, predominantly] are also permitted in the district. **CenturyLink's use for the for the residential lot located at 21439 Dawson/1571 Adrian is to establish a pair gain for the improvement/expansion of residential telephone service and internet to the residents of the area.** Although cell phones are increasingly eliminating the standard home telephone service in many homes, older neighborhoods with older

**Narrative**  
**( Exhibit E-1 )**



residents have a far higher rate of utilizing the traditional home telephone line. Telephone service, whether it's expanded or initial installation is an accessory to single family home subdivisions, we believe. Section 3-9-32(c)(1)(a) states that private storage structures – and a pair gain is a storage structure for telephone conduits/cables/connections – are limited to metal buildings limited to 600 square feet, which our pair gain would not exceed. Section 3-9-32(c)(1)(b) indicates that accessory buildings over 250 square feet must be compatible with the residences. As every subdivision with electricity has similar type (to our pair gain) metal cabinets for electrical service, albeit somewhat smaller, the pair gain is not an obtrusive or unfamiliar site in a residential neighborhood. Section 3-9-32(c)(1)(c) indicates that no structure shall exceed 1,000 square feet; the CenturyLink pair gain will not exceed 450 square feet for the entire site on a lot containing 9,991 square feet.

While we believe the use of the residential lot for a pair gain site could be a permitted use, if it is not, then we would request the special use exception be granted under either:

Section 3-9-32(e)(9) – essential services and emergency services, as telephone is still considered;

Section 3-9-32(e)(11) – radio and television transmission towers, as a telephone pair gain serves a similar function and far less intrusive structure; or

Section 3-9-32(e)(12) – such other uses as determined by the zoning official to be:

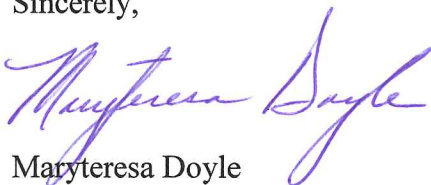
(a) appropriate by reasonable implication and intent of the district;

(b) similar to another use either explicitly permitted in that district or allowed by special exception (as is the case with radio and television transmission towers);

(c) not specifically prohibited in the district.

Please let me know if I may provide additional information or clarification. We appreciate your review of the CenturyLink application.

Sincerely,

  
Maryteresa Doyle

**Narrative**  
**( Exhibit E-2 )**

5454 West 110<sup>th</sup> Street  
Overland Park, KS 66211  
Mailstop: DF154L0902-930  
Tel: 913-345-6854  
Fax: 913-345-7615  
maryteresa.doyle@centurylink.com





# Charlotte County Government

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## MEMORANDUM

**Date:** May 24, 2012  
**To:** Ken Quillen, Planner III  
**From:** Jamie Scudera, Environmental Specialist  
**Subject:** SE-12-009  
CenturyLink (Embarq) Pair Gain  
21431 Dawson Ave.

The Zoning Environmental Review Section has conducted a cursory review (additional wildlife or environmental reviews may be required by state and/or federal agencies) of the above referenced petition for compliance with Environmental, Tree and Landscaping codes/ordinances and offers the following comments:

- ❖ A GIS aerial review was conducted by staff. The property consists of an undeveloped residential lot in a highly developed residential neighborhood. Due to the fact that the property is undeveloped, there is a probability of listed species occurrence on site. A listed species assessment will be completed during the development/permit review process. Staff also highly encourages that all native trees remain preserved on site.

If this petition is approved, the following conditions will be reviewed for compliance upon Site Plan Review (if required) and the issuance of any county permit or land improvement activities:

- ❖ All applicable county, state and federal authorization/permits, and mitigation (if necessary) will be required.
- ❖ If this proposal moves forward, it will be reviewed for compliance with:

Chapter 3-2:

Article IX. TREE REQUIREMENTS\*

\*\*All heritage trees (per Section 3-2-190) must remain preserved.

**( Exhibit F-1 )**

**COMMUNITY DEVELOPMENT DEPARTMENT - Zoning Division**

18400 Murdock Circle | Port Charlotte, FL 33948

Phone: 941.743.1290 | Fax: 941.743.1598



Chapter 3-5:

Article IV *CLEARING, FILLING AND SOIL CONSERVATION\**,  
Article XVIII, *LANDSCAPING AND BUFFERS\**

- ❖ The project must also comply with the Charlotte County Smart Charlotte 2050 Comprehensive Plan.

If there are any questions pertaining to this review please feel free contact me at (941) 743-1290.

JS

**( Exhibit F-2 )**